

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Revision of the Commission's Rules to)	WT Docket No. 05-301
Ensure Compatibility with Enhanced)	
911 Emergency Calling Systems)	
)	
Request for Waiver of GPS Handset)	
Penetration Rule by Verizon Wireless)	

**COMMENTS OF CTIA – THE WIRELESS ASSOCIATION®
ON VERIZON WIRELESS REQUEST FOR LIMITED WAIVER**

CTIA – The Wireless Association® (“CTIA”)¹ submits these comments in support of Verizon Wireless’ Request for Limited Waiver of the December 31, 2005 Enhanced 911(“E911”) implementation deadline.² For the reasons set forth by Verizon Wireless, and by CTIA and the Rural Cellular Association (“RCA”) in their Joint Petition,³ the Commission should suspend the December 31, 2005 deadline for 95 percent penetration of location-capable handsets, and provide Verizon Wireless additional time to meet the penetration threshold.⁴

¹ CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, broadband PCS and ESMR, as well as providers and manufacturers of wireless data services and products.

² Verizon Wireless, Request for Limited Waiver, CC Dkt. 94-102 (Oct. 17, 2005) (“Verizon Wireless Request”). *See* Section 20.18(g)(1)(v) of the Commission’s Rules (requiring Verizon Wireless to achieve 95 percent penetration of location-capable handsets by December 31, 2005).

³ Joint Petition of CTIA-The Wireless Association and the Rural Cellular Association for Suspension or Waiver of the Location-Capable Handset Penetration Deadline, CC. Dkt. 94-102 (June 30, 2005) (“CTIA/RCA Petition”).

⁴ Verizon Wireless requests an additional 6 months to achieve 95 percent penetration of location capable handsets. Verizon Wireless Request at 31.

I. GRANTING LIMITED RELIEF TO VERIZON WIRELESS SERVES THE PUBLIC INTEREST

CTIA supports the Commission's wireless E911 goals, including the ubiquitous deployment of Phase II location capabilities. Verizon Wireless has been vigilant in its efforts to comply with the Commission's rules, has met or exceeded each interim milestone for the deployment of handsets with location capabilities and has conducted numerous programs to promote handset replacement.⁵ Verizon Wireless has made enormous progress in achieving the interim benchmarks laid out in section 20.18(g), but even with all its efforts, Verizon Wireless will fall short of the requirement that it achieve 95 percent penetration of location-capable handsets by December 31 of this year.⁶

Verizon Wireless seeks an extension of the December 31, 2005 deadline as a result of recent changes in GPS-capable handset penetration trends.⁷ Verizon Wireless anticipates it will achieve the 95 percent benchmark by June 30, 2006 and seeks to defer its obligation to comply with the penetration rule until that date.⁸

In support of its request, Verizon Wireless has identified the following barriers to meeting the Commission's 95 percent penetration rule: the pace of Public Safety Answering

⁵ See Verizon Wireless Request at 4-10. The Commission itself has "recognized that the E911 deployment schedule was aggressive in light of the need for further technological advancement. . . ." *Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Phase II Compliance Deadlines for Non-Nationwide CMRS Carriers*, ORDER TO STAY, 17 FCC Rcd 14841, 14842 ¶ 5 (2002) ("*Non-Nationwide Stay Order*") (citing *Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, FOURTH MEMORANDUM OPINION AND ORDER, 15 FCC Rcd 17442, 17457-58 (2000)).

⁶ 47 C.F.R. § 20.18(g). See Verizon Wireless, E911 Status – Quarterly Report – November 1, 2005, CC Dkt. 94-102 at 1 (Nov. 1, 2005) ("Verizon Wireless Quarterly Report").

⁷ See Verizon Wireless Request at 16.

⁸ See *id.* at 1, 31.

Point (PSAP) Phase II readiness,⁹ the reluctance of some legacy customers to upgrade their non-GPS handsets,¹⁰ the recent slowdown in Verizon Wireless' growth rate in GPS handset penetration,¹¹ and low churn rate.¹²

Verizon Wireless has been diligent in its compliance efforts, and has met the interim benchmark that all new digital handsets activated on its network are location capable.¹³ Despite these efforts, consumer behavior will prevent it from meeting the December 31 deadline for compliance with the 95 percent location capable handset penetration requirement. Contrary to the Commission's assumptions regarding the pace of customer churn and handset replacement, it has become clear that the majority of carriers will be unable to satisfy the 95 percent penetration threshold by the end of this year.¹⁴ Notwithstanding promotions, targeted marketing and the attractiveness of new products, a greater than anticipated percentage of wireless consumers have demonstrated their reluctance to exchange their non-location capable handsets for GPS-equipped phones.

High satisfaction levels and the nature of the Verizon Wireless' customer base which includes many government agencies, customers involved in transportation, rural subscribers and

⁹ *See id.* at 11-14

¹⁰ *See id.* at 17-19.

¹¹ *See id.* at 19-21.

¹² *See id.* at 21-23.

¹³ *See* Verizon Wireless Quarterly Report at 1; Verizon Wireless Request at 2-3.

¹⁴ *See* Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, THIRD REPORT AND ORDER, CC Dkt. No. 94-102, at ¶ 51 (1999) ("Third Report and Order"). *See also* Sprint Nextel Corporation Request for Limited Waiver, CC Docket No. 94-102 (Sept. 29, 2005); Alltel Corporation, Alltel Corporation Petition for Limited Waiver, CC Dkt. No. 94-102 (Sept. 30, 2005); SouthernLINC Wireless, Request for Waiver by SouthernLINC Wireless, CC Dkt. 94-102 (July 26, 2005); Cellular South Licenses, Inc., Request for Limited Waiver and Extension of the Handset Penetration Deadline of the Commission's Phase II E911 Rules, CC Dkt. 94-102 (Sept. 20, 2005).

those with special applications or technical requirements, have resulted in considerably lower churn than expected by Verizon Wireless or the Commission.¹⁵ Many of its subscribers have informed Verizon Wireless that they are unwilling or unable to change to GPS handsets. Due to special applications on non-GPS handsets or 3-watt booster capability, legacy customers have specifically requested to continue use of their non-GPS capable handsets.¹⁶ Furthermore, as Verizon Wireless notes, not only has its customers' satisfaction with Verizon Wireless' service contributed to a reduction in churn, but an increasing proportion of customers buying new handsets are trading in already location-capable GPS models.¹⁷ Unfortunately, GPS-to-GPS handset replacement has no effect on improving the overall penetration rate.

As the National Association of Regulatory Utility Commissioners ("NARUC") has observed in its comments in support of the CTIA/RCA Petition, there are legitimate reasons why the Commission should not enforce its rules in a manner that forces consumers to give up their handsets unwillingly.¹⁸ Accordingly, the public interest will be served by the grant of limited relief to ensure that wireless customers who do not want to replace their non-location capable handsets are not needlessly burdened. CTIA urges the Commission to extend the December 31, 2005 E911 implementation deadline for Verizon Wireless. For the reasons set forth in the CTIA/RCA Petition, CTIA also requests that the Commission extend the penetration deadline for

¹⁵ See Verizon Wireless Request at 17-19.

¹⁶ *Id.*

¹⁷ See *id.* at 21.

¹⁸ In its comments, NARUC maintains that strict adherence to current E911 rules would mean "[m]any wireless customers in rural America will not immediately benefit" when required to "involuntarily surrender their otherwise safe, reliable and usable wireless handsets" and the level and availability of wireless E911 service to certain rural wireless customers might in fact decrease. See NARUC, Initial Comments of the National Association of Regulatory Utility Commissioners Supporting the Joint Petition for Suspension or Waiver of the Location-Capable Handset Penetration Deadline, WT Dkt. 05-288 at 5 (Oct. 17, 2005) ("NARUC E911 Waiver Comments").

all wireless carriers that have shown a good faith effort to comply with the rules by satisfying the 100 percent digital activation requirement.¹⁹

II. VERIZON HAS DEMONSTRATED GOOD CAUSE TO GRANT LIMITED RELIEF OF THE HANDSET PENETRATION DEADLINE

Wireless carriers that have made a good faith effort to comply with the Commission's rules should not be penalized for factors the Commission and carriers could not have anticipated when the handset penetration deadline was established. As Verizon Wireless describes in its request, it has rolled out several innovative campaigns to entice subscribers to exchange their phones for GPS-capable models.²⁰ Accordingly, Verizon Wireless' inability to meet the penetration deadline is not a result of its lack of commitment to deploy Phase II service but rather customers' contentment with their service and handsets which makes them resistant to change.

CTIA respectfully requests that the Commission grant Verizon Wireless' limited waiver as the carrier has demonstrated good cause. Verizon Wireless' requested relief is specific, limited and narrow in scope, in that it only addresses the upcoming December 31 deadline, and seeks no other extensions or waivers of the FCC's rules.²¹ Verizon Wireless is on track to satisfying the 95 percent penetration benchmark,²² and asks for an additional six months to come into full compliance with the Commission's rules. During the period, Verizon Wireless has pledged to maintain all of its efforts to meet the penetration milestone as early as possible in

¹⁹ See CTIA/RCA Petition at 1. 47 C.F.R. § 20.18(g)(iv). See also NARUC E911 Waiver Comments.

²⁰ See Verizon Wireless Request at 4-10.

²¹ See *id.* at 24.

²² See *id.* at 27. See Verizon Wireless Quarterly Report at 2 ("Presently 91% of Verizon Wireless' customers have GPS-capable handsets and [Verizon Wireless] expect[s] to reach 93% penetration by year-end, just short of the Commission's target.").

2006 and has proposed to expand its quarterly reporting obligation to keep the Commission up to date of its progress.²³

CONCLUSION

For the foregoing reasons, CTIA supports Verizon Wireless' request for limited waiver seeking relief of the Commission's 95 percent penetration rule. CTIA also advocates suspension of the ALI-capable handset penetration deadline for all similarly situated wireless carriers whose digital wireless activations are 100 percent location-capable as of December 31, 2005.

Respectfully submitted,

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²³ See *id.* at 31-32.